STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL EDWARD RENWICK,

Defendant-Appellant.

UNPUBLISHED
July 2, 1999

No. 205359
Macomb Circuit Court
LC No. 95-001180 FH

Before: Zahra, P.J., and Saad and Collins, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of operating a motor vehicle while under the influence of intoxicating liquor and/or while having an unlawful blood alcohol level, third offense, MCL 257.625(1) *et seq.*; MSA 9.2325(1) *et seq*., and driving with a revoked license, MCL 257.904(1)(b); MSA 9.2604(1)(b).[1] Defendant was sentenced to three years' probation, the first year to be served in the county jail. Defendant appeals as of right. We affirm.

On appeal defendant argues that the trial court erred in denying his motion to dismiss because the police department's destruction of the original videotape of his arrest deprived him of possible exculpatory evidence and thereby denied him a fair trial. However, defendant has abandoned this issue on appeal because he has failed to cite any relevant authority to support his position. *People v Hanna*, 223 Mich App 466, 475; 567 NW2d 12 (1997).[2]

In any event, defendant has failed to show that the original videotape of his arrest was exculpatory or that the police acted in bad faith when they erased the tape. See *People v Hunter*, 201 Mich App 671, 677; 506 NW2d 611 (1993); *People v Johnson*, 197 Mich App 362, 365; 494 NW2d 873 (1992). At trial, Lieutenant Oleksyk testified that the duplicate copy defendant received under the Freedom of Information Act, and which he used at trial, was made from the original and that the partial loss of the audio or visual was not uncommon given the age of the video system. Thus, there is no indication on the record that the original was of better quality. Moreover, the testimony established that the tape had been erased, in accordance with standard procedure, only after the records bureau received notice from the district court that the case against defendant had been closed. Under these circumstances, defendant has failed to show that the police wrongfully destroyed

exculpatory evidence to prevent its use at trial. Accordingly, the trial court did not abuse its discretion in denying defendant's motion to dismiss. *People v Adams*, 232 Mich App 128, 132; 591 NW2d 44 (1998).

Defendant also contends that the evidence was insufficient to support his convictions for operating a motor vehicle while under the influence of intoxicating liquor and/or while having an unlawful blood alcohol level and driving with a revoked license. When reviewing the sufficiency of the evidence in a criminal case, this Court must view the evidence in a light most favorable to the prosecution and determine whether a reasonable jury could have found that the elements of the crime were proven beyond a reasonable doubt. *People v Fetterley*, 229 Mich App 511, 515; 583 NW2d 199 (1998). Circumstantial evidence and reasonable inferences drawn therefrom may constitute satisfactory proof of the elements of the offense. *People v Truong* (*After Remand*), 218 Mich App 325, 337; 553 NW2d 692 (1996).

Defendant challenges the sufficiency of the evidence only with respect to the issue of whether he operated the motor vehicle in question, an element common to both offenses. See MCL 257.625(1) *et seq.*; MSA 9.2325(1) *et seq.*; MCL 257.904(1); MSA 9.2604(1). We disagree.

In the present case, Officer Centala testified that he observed defendant standing four or five feet from a car off the expressway, which appeared to have been involved in an accident. When the officers arrived at the scene, defendant was no longer there, the car was damaged, and the engine was still warm. Ten to twenty minutes later, the officers found defendant hitchhiking approximately a quarter mile from the accident scene. In response to questioning, defendant stated that the car at the accident scene was his and that he had been involved in the accident. Both officers testified that defendant admitted that he had been driving the car and that the accident occurred when "he hit black ice." The officers further testified that defendant never told them that another person had been driving the car and that they did not observe anyone else with defendant or at the accident scene. While defendant and his girlfriend testified that defendant never drove the vehicle in question, issues of witness credibility are properly resolved by the fact finder. *People v McFall*, 224 Mich App 403, 412; 569 NW2d 828 (1997). Viewing this evidence in a light most favorable to the prosecution, we conclude that there was sufficient evidence to permit a reasonable jury to conclude beyond a reasonable doubt that defendant operated the motor vehicle in question on the date of his arrest.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Jeffrey G. Collins

[1] Former subsection (1)(b) is currently codified in subsection (1)(a). 1994 PA 450, § 1, Eff. May 1, 1995.

[2] The best evidence rule, which defendant cites as the sole authority for his argument on appeal, pertains to the admissibility of evidence, not the due process argument he appears to raise on appeal. To the extent defendant claims that the videotape was offered in violation of the best evidence rule, his argument lacks merit because he was the party that proffered the duplicate tape at trial. Moreover, even assuming the prosecutor had been the proponent of the evidence, defendant has failed to show that the videotape was destroyed in bad faith. See MRE 1004 (the original is not required and other evidence of the content of a recording is admissible if "[a]ll originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith.")